

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0583G

IN THE MATTER OF THE VERIFIED JOINT APPLICATION OF BLACK HILLS COLORADO GAS, INC. AND ROCKY MOUNTAIN NATURAL GAS LLC FOR A COMMISSION DECISION APPROVING QUALITY OF SERVICE PLANS.

COMMISSION DECISION GRANTING APPLICATION

Mailed Date: December 30, 2019

Adopted Date: December 17, 2019

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I. BY THE COMMISSION

A. Statement

1. On October 25, 2019, Black Hills Colorado Gas, Inc. (BH Colorado Gas)¹ and Rocky Mountain Natural Gas LLC (RMNG) jointly filed a joint application (Joint Application)

¹ BH Colorado Gas is the successor in interest to Black Hills Gas Distribution, LLC and Black Hills/Colorado Gas Utility Company, Inc.

for approval of Quality of Service Plans (QSPs) for its gas utilities (jointly Black Hills or the Company). The Company makes this filing to comply with requirements set in Decision Nos. C19-0798 and C19-0799, in Proceeding Nos. 18A-0824G and 18A-0823G, both decisions were issued on September 27, 2019, and each rejected the Company's previously filed QSP applications.

2. Commission Staff (Staff) and the Office of Consumer Counsel (OCC) each filed a notice of intervention and request for hearing regarding the Joint Application. No other intervention pleadings were filed. Both Staff and the OCC subsequently filed notices withdrawing their interventions and requests for hearing. We therefore consider the Joint Application unopposed and, consistent with the discussion below, grant the unopposed Joint Application.²

B. Background

3. As a condition of approval of its acquisition of SourceGas Distribution LLC (SourceGas),³ on January 22, 2016 in Proceeding No. 15A-0667G, through Decision No. R16-0058 (2016 Decision), the Commission required RMNG and BH Colorado Gas each to confer with Staff regarding respective QSPs for Commission approval. The 2016 Decision specified a list of required QSP programs to ensure that service quality would not deteriorate following the acquisition.

² Notice of the application issued on October 28, 2019. Consistent with Rule 1303(c)(III), 4 *Code of Colorado Regulations* 723-1, for purposes of § 40-6-109.5, C.R.S., the application was automatically deemed complete on December 12, 2019.

³ Black Hills Utility Holdings, Inc. (Black Hills Holdings), a subsidiary held by Black Hills Corporation, acquired SourceGas Holdings, LLC, which owned 100 percent of SourceGas that, in turn, owned 100 percent of SourceGas and RMNG.

4. The Company subsequently filed applications for approval of QSPs in Proceeding Nos. 18A-0823G and 18A-0824G.⁴ Those proposed QSPs included the metrics as required in the 2016 Decision, but did not include any performance assurance such as negative financial incentives. Black Hills asserted that negative financial incentives were not necessary.

5. In those proceedings, the Administrative Law Judge issued Decision Nos. R19-0449 and R19-0450 on May 25, 2019, finding that the 2016 Decision required negative financial incentives, and recommending that the Company amend its applications accordingly. Through its consideration of exceptions, rather than permitting amendment, the Commission subsequently denied the respective QSP applications in Decision Nos. C19-0798 and C19-0799, and required subsequent application filings.

6. Within each of its decisions, the Commission found that the proposed QSPs omitted negative financial incentives as required by the 2016 Decision. The Commission directed the Company to file a complete application with, at least, proposed metrics and negative financial incentives within 30 days of September 27, 2019, the mail date of both Decision Nos. C19-0798 and C19-0799. In addition, RMNG and BH Colorado Gas were each required to file performance metric reports until a final Commission decision issued on the required, subsequent QSP application.

C. Joint Application

7. On October 25, 2019, Black Hills filed a Joint Application on behalf of both BH Colorado Gas and RMNG. The Joint Application includes proposed QSP metrics, annual

⁴ Through the acquisition, RMNG and BH Colorado Gas are operated under Black Hills Holdings as jurisdictional utilities. Both proceedings were referred to Administrative Law Judge Conor Farley. With limited exceptions, the records for both Proceeding Nos. 18A-0823G and 18A-0824G are substantively similar, as are the Administrative Law Judge's determinations on each individual case, and the Commission's determinations on exceptions.

goals, and proposes negative financial incentives, as required by the 2016 Decision and determinations made in Decision Nos. C19-0798 and C19-0799.

8. Through the Joint Application, Black Hills proposes five-year QSPs, from January 1, 2020 through December 31, 2024, with annual reports filed on May 15th after each year starting in 2021 through 2025. The Company includes that it will refund any resulting negative financial incentive to customers in a one-time bill credit to all active customers within 120 days of the annual filing.

9. For BH Colorado Gas, the Company is proposing five metrics within the three categories of Safety, Reliability, and Adequacy of Service, as required by the 2016 Decision. The Safety category has two QSP metrics: Damage Prevention and Emergency Response Time. The Reliability category includes one QSP metric: Outage Frequency. The Adequacy of Service category includes two QSP metrics: Average Time to Answer Customer Calls and On-Time Rate for Non-Emergency Calls.

10. Because RMNG is an intrastate natural gas pipeline and does not engage in local distribution services, for RMNG, the Company proposes only two metrics, with one metric each within the categories of Safety and Reliability. The Safety category includes a metric for Damage Prevention, and the Reliability category includes a metric for Outage Frequency.

11. For each metric, Black Hills' Joint Application proposes a quality threshold level, and a negative financial incentive if the minimum threshold is not met. The Company includes a maximum negative financial incentive of \$135,000 per year for BH Colorado Gas, and a maximum negative financial incentive of \$10,000 per year for RMNG. These levels are

proportionate to Public Service Company of Colorado's QSP⁵ that has a maximum total annual negative incentive of \$750,000, adjusted for the number of customers for each company.

12. Staff filed a notice of intervention of right on November 27, 2019, and requested a hearing in the matter. However, Staff filed a notice of withdrawal of intervention on December 10, 2019. In its notice of withdrawal, Staff states that it conferred at length with the Company and asserts that the metrics for the proposed QSP reflect the prior efforts between Staff and the Company in developing the goals.

13. Staff asserts that the level of negative financial incentive provides an adequate deterrent to the degradation of service quality. Staff states that it is "satisfied that the Company's proposed QSP plan penalties are proportional to those established in QSPs for other gas utilities." Staff's review concludes that negative incentives are proportional to those established in Public Service Company of Colorado's QSP,⁶ and the proposed negative incentives are consistent with QSP plans for other gas utilities in Colorado. Staff states its belief, based on the Company's application and responses to Staff's questions, that approving the Joint Application as proposed is consistent with past Commission decisions and will maintain consistent treatment between gas utilities. Staff, therefore, does not oppose the Joint Application.

14. Similarly, OCC filed a notice of intervention of right and request for hearing on November 25, 2019. Subsequently, on December 16, 2019, OCC also filed a notice of withdrawal of intervention and withdrew its request for hearing. OCC states that it performed a thorough review of the Joint Application and worked with the Company to resolve concerns. With additional information provided by the Company, OCC asserts that it has not identified any

⁵ Proceeding No. 18A-0918G.

⁶ Staff Notice of Withdrawal, at 2 (citing Direct Testimony of Christopher M. Otto, 13:18-14:4).

aspects of the Joint Applicants' plan that are unreasonable and warrant further scrutiny by the Commission in this proceeding.

D. Findings and Conclusions

15. Consistent with Rule 1403 of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, given the withdrawal of Staff and OCC's respective interventions, we consider the matter unopposed and grant the Joint Application. We agree with statements made by Staff and OCC that the Company has proposed reasonable metrics and negative financial incentives to ensure that the Company's service quality will not degrade, consistent with the requirements in past decisions.

16. The 2016 Decision prescribed the metrics categories, which were thoroughly analyzed in Proceeding Nos. 18A-0823G and 18A-0824G. Consistent metrics are proposed again in the Joint Application.

17. As discussed in our determinations in Decision Nos. C19-0798 and C19-0799, the 2016 Decision required negative financial incentives to ensure the companies prevented service quality degradation and avoided harm to ratepayers.⁷ These expectations regarding QSP considerations and implementation remain, including that the QSP's terms ensure that customer's quality of service is maintained.

18. As detailed in Tables 1 and 2 in the Application,⁸ Black Hills provides QSP metrics, goals based on a rolling average, and negative financial incentives for each metric. Negative incentives range from \$22,500 to \$45,000 for specific metrics for BH Colorado Gas, and at \$5,000 for RMNG for both Safety – Damage Prevention, and Reliability – Outage

⁷ See, e.g., Decision No. C18-0798, Proceeding No. 18A-0824G, at ¶¶ 6 and 10-17.

⁸ Joint Application at pp. 2-3.

Frequency, metrics. These negative incentives will be provided as a one-time bill credit if the rolling average goal for a particular metric are not met, as shown in annual reporting required each year. This credit minimizes any harm to ratepayers if service degradation occurs, in addition to the financial incentive to the Company to maintain service quality.

19. We find that the proposed metrics and rolling average goals meet our expectation that the QSP will provide ongoing quality service to customers. We therefore grant the Joint Application.

20. BH Colorado Gas and RMNG shall implement QSPs and associated reporting requirements, and shall make any required refunds to customers, consistent with the Joint Application.

21. Reporting shall be provided consistent with the Joint Application, including annual reporting on May 15. By Decision Nos. C19-0798 and C19-0799, the Commission required ongoing reporting of metrics through the respective proceedings until the Commission issued its decisions regarding subsequent QSP applications. Through this Decision, reporting in Proceeding Nos. 18A-0823G and 18A-0824G, is no longer required.

II. ORDER

A. The Commission Orders That:

1. The joint application for approval of Quality of Service Plans (QSPs) filed by Black Hills Colorado Gas, Inc. (BH Colorado Gas) and Rocky Mountain Natural Gas LLC (RMNG) on October 25, 2019, is approved.

2. BH Colorado Gas and RMNG shall implement QSPs and associated reporting requirements, and shall make any required refunds to customers, consistent with the discussion above.

3. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 17, 2019.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners